

REMARKS

By this Reply, Applicant amends claims 33, 34, 47, 48, 61, 63, 64, and 68. No new matter has been added by this Reply. Claims 33-69 remain pending in this application, of which claims 33, 47, 61, 63, 64, and 68 are independent.

I. Claim Rejections Under 35 U.S.C. § 103(a)

In the Office Action mailed February 4, 2009, claims 33-36, 38-50¹, and 52-69 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application Publication 2003/0032424 ("Judd") in view of U.S. Patent No. 7,203,519 ("Ylitalo"), and claims 37 and 51 under 35 U.S.C. § 103(a) as being unpatentable over Judd and Ylitalo further in view of U.S. Patent No. 7,257,425 ("Wang").

Applicant respectfully traverses the 35 U.S.C. § 103(a) rejections of claims 33-69, as presently amended, because the Office Action fails to establish a *prima facie* case of obviousness. In order to establish a *prima facie* case of obviousness, the record must "include[] findings of fact concerning the state of the art and the teachings of the references" The Manual of Patent Examining Procedure ("M.P.E.P.") § 2141(II) (8th ed., rev. 7, July 2008) (relying on KSR Int'l Co. v. Teleflex Inc., 127 S. Ct. 1727, 82 U.S.P.Q.2d (BNA) 1385 (2007), and confirming the legal framework

¹ Applicant notes that the Office Action appears to contain a typographical error. Specifically, the Office Action states, in pertinent part, "[c]laims 33-36, 38-54, and 52-69 are rejected under 35 U.S.C. § 103(a)." Office Action mailed February 4, 2009 ("Office Action") at 2. Applicant notes, however, that claims 37 and 51 were separately rejected at page 11 of the Office Action. To avoid overlapping ranges of rejected claims, Applicants believe that the Examiner intended to reject claims 38-50 at page 2 rather than claims 38-54, as listed in the Office Action.

established by Graham v. John Deere Co., 383 U.S. 1, 17, 148 U.S.P.Q. 459, 467 (1966)). Moreover, “[o]nce the findings of fact are articulated, [the rejection statement] must provide an explanation to support an obviousness rejection under 35 U.S.C. [§] 103.” Id. If it is found that the prior art references fail to disclose all of the subject matter recited in a claim, the rejection statement “must explain why the difference(s) between the prior art and the claimed invention would have been obvious to one of ordinary skill in the art.” M.P.E.P. § 2141(III).

Claims 33, 47, 61, 63, 64, and 68 are the only independent claims included in the claim rejections under 35 U.S.C. § 103(a), and Applicants respectfully traverse the rejection of independent claims 33, 47, 61, 63, 64, and 68 under § 103(a) at least because Judd, Ylitalo, and Wang, regardless of whether they are viewed individually or as a whole, fail to disclose or render obvious all of the subject matter recited in any of amended independent claims 33, 47, 61, 63, 64, and 68.

A. Amended Independent Claims 33, 64, and 68

Amended independent claim 33, from which claims 34-36, and 38-46 ultimately depend, is directed to a method for configuring radiation characteristics of an antenna, the antenna including, among other things, “a plurality of radiating elements, wherein each of said radiating elements is associated with at least a respective signal processing chain located in an antenna unit that is integral to the antenna, said at least one respective signal processing chain comprising: at least one module for weighting digital signals, the at least one module configured to apply at least a weighting coefficient to a digital signal; and at least one antenna conversion set interposed

between said at least one module for weighting digital signals and a respective one of the radiating elements of the antenna, said antenna conversion set being configured to convert between digital signals processed by the at least one module for weighting digital signals and analog signals transmitted and received at a radiating element.”

Judd and Ylitalo, regardless of whether they are viewed individually or as a whole, fail to disclose or render obvious at least this subject matter recited in amended independent claim 33.

The Office Action concedes that Judd “fails to disclose at least one module for weighting digital signals.” Office Action at 3-4. In an apparent effort to remedy this deficiency of Judd, the Office Action asserts that Ylitalo “discloses at least one module for weighting digital signals[,] the at least one module configured to apply at least a weighting coefficient to a digital signal. . .” Office Action at 4. But Ylitalo does not disclose (nor does it render obvious) “at least one module for weighting digital signals” that is part of “a signal processing chain located in an antenna unit that is integral to the antenna,” as recited in Applicant’s amended independent claim 33. (Emphasis added). In fact, Ylitalo is silent with respect to the weighting module as integral to the antenna itself, and does not suggest or render obvious such a feature.

Similarly, amended independent claims 64 and 68, from which claims 65-67 and 69 ultimately depend, each recite a method for configuring radiation characteristics of an antenna comprising “receiving, at an antenna unit integral to the antenna, a data signal and a control signal on the same communication link, the data signal corresponding to one or more digital signals to be processed in the antenna unit and the control signal including information indicating at least one weighting coefficient to be

applied by modules for weighting digital signals that are housed within the antenna unit.”
As outlined above with respect to amended independent claim 33, Judd and Ylitalo, regardless of whether they are viewed individually or as a whole, fail to disclose or render obvious “modules for weighting digital signals that are housed within the antenna unit” where the “antenna unit is integral to the antenna.” (Emphasis added).

Because Judd and Ylitalo fail to disclose all of the subject matter recited in amended independent claims 33, 64, and 68, the Office Action “must explain why the difference(s) between the prior art and the claimed invention would have been obvious to one of ordinary skill in the art.” M.P.E.P. § 2141(III). Applicant respectfully submits that the Office Action has failed to articulate any rationale in purported support of why the differences between the subject matter recited in claims 33, 64, and 68, as amended, and the alleged prior art would have been obvious to a person having ordinary skill in the art at the time the invention was made.

For at least the reasons outlined above, the Office Action fails to establish a *prima facie* case of obviousness with respect to amended independent claims 33, 64, and 68. Furthermore, each of claims 34-36, 38-46, 65-67, and 69 depend either directly or indirectly from one of amended independent claims 33, 64, and 68 and should be allowable for at least the same reasons as claims 33, 64, and 68 are allowable. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the 35 U.S.C. § 103(a) rejection with respect to claims 33-36, 38-46 and 64-69.

B. Amended Independent Claims 47, 61, and 63

Amended independent claims 47, 61, and 63, from which claims 48-50, 52-60, and 62 ultimately depend, each recite “an antenna unit integral to the antenna and comprising one or more signal processing chains associated with the plurality of radiating elements, the antenna unit further comprising: at least one module for weighting digital signals, the at least one module configured to apply at least a weighting coefficient to a digital signal; and at least one antenna conversion set interposed between said at least one module for weighting digital signals and a respective one of the radiating elements of the antenna, said antenna conversion set being configured to convert between digital signals processed by the at least one module for weighting digital signals and analog signals transmitted and received at a radiating element.” As outlined above with respect to amended independent claim 33, Judd and Ylitalo, regardless of whether they are viewed individually or as a whole, fail to disclose or render obvious “modules for weighting digital signals that are housed within the antenna unit” where the “antenna unit is integral to the antenna.”

Because Judd and Ylitalo fail to disclose all of the subject matter recited in amended independent claims 47, 61, and 63, the Office Action “must explain why the difference(s) between the prior art and the claimed invention would have been obvious to one of ordinary skill in the art.” M.P.E.P. § 2141(III). Applicant respectfully submits that the Office Action has failed to articulate any rationale in purported support of why the differences between the subject matter recited in claims 47, 61, and 63, as amended, and the alleged prior art would have been obvious to a person having ordinary skill in the art at the time the invention was made.

For at least the reasons outlined above, the Office Action fails to establish a *prima facie* case of obviousness with respect to amended independent claims 47, 61, and 63. Furthermore, each of claims 48-50, 52-60, and 62 depend either directly or indirectly from one of amended independent claims 47, 61, and 63 and should be allowable for at least the same reasons as claims 47, 61, and 63 are allowable. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the 35 U.S.C. § 103(a) rejection with respect to claims 47-50 and 52-63.

C. Dependent Claims 37 and 51

In the Office Action, claims 37 and 51 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Judd in view of Ylitalo and further in view of Wang. Claims 37 and 51 depend from amended independent claims 33 and 47, respectively, which are allowable for at least the reasons outlined above. Wang, which was cited only for its purported disclosure of an RF processor that downconverts received RF signals for baseband processing, does not remedy the deficiencies of Judd and Ylitalo outlined above. Therefore, the 35 U.S.C. § 103(a) rejection of dependent claims 37 and 51 cannot be maintained and should be withdrawn.

II. Conclusion

In view of the foregoing remarks, Applicant respectfully requests reconsideration and reexamination of this application, withdrawal of the claim rejections, and the timely allowance of pending claims 33-69.

The Office Action contains characterizations and assertions regarding the claims and the cited art with which Applicant does not necessarily agree. Unless expressly noted otherwise, Applicant respectfully declines to automatically subscribe to any characterizations or assertions included in the Office Action.

If the Examiner believes that a conversation might expedite prosecution of this application, the Examiner is cordially invited to call Applicant's undersigned representative.

Please grant any extensions of time required to enter this Reply and charge any additional required fees to our Deposit Account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: June 4, 2009

By: 

Brad C. Rametta
Reg. No. 54,387
(404) 653-6552